

Land Use Consent

Under Section 104B of the Resource Management Act 1991, a resource consent is granted by the Southland Regional Council to **Fawna Farms Limited** of **370 Mossburn Lumsden Highway, Castlerock, 9792** from **XX March 2023**.

Please read this Consent carefully, and ensure that any staff or contractors carrying out activities under this Consent on your behalf are aware of all the conditions of the Consent.

Details of Consent

Purpose for which permit is granted: Use of land for farming

Location [- Groundwater zone\(s\)](#) - Unclassified
[- FMU](#) - Waiau
[- Physiographic zone\(s\)](#) - Bedrock/Hill Country, Gleyed & Oxidising
[- catchment](#) - Waiau River

Expiry date: **31 May Decemeber 2030**

Schedule of Conditions

1. Except as modified by conditions of resource consent, the activities authorised by this resource consent shall be carried out in general accordance with the application for resource consent (APP-20222565)¹ and all subsequent information provided during the application and the Farm Environmental Management Plan required by this consent.
2. For the avoidance of doubt, in the event that any inconsistency between the conditions of resource consent and the information and plans, including the Farm Environmental Management Plan (FEMP), submitted as part of the application, the conditions of resource consent shall prevail.

¹ Environment Southland Document ID: A833378

3. This consent shall be exercised in conjunction with Discharge Permit AUTH-20222565-01 and Water Permit AUTH-20222565-02 or any subsequent replacement permits.

Advice Note: Routine monitoring inspections of this consent may occur up to once a year. This number does not include any other required inspections.

4. The use of land for farming shall occur on the landholding at 1620 Ohai Clifden Highway, as shown on the plan attached as Appendix 1, and consisting of:

- (a) an existing block of land at or about map reference (NZTM 2000) 1201663E 4890884N and comprising Lot 3 DP 340527; Pt Section 94 Waiau SD; Section 1 SO 452868; Section 18 Merrivale Settlement No 2; Pt Section 29 Blk IX Waiau SD; Pt Section 94 Waiau SD; Pt Section 94R Waiau SD; Pt Section 29 Blk IX Waiau SD; Section 16 Merrivale Settlement No 2; Section 110 Waiau SD; Pt Section 8 Blk IX Waiau SD; and
- (b) a new block of land at or about map reference (NZTM 2000) 1200884 4893306 and comprising Lot 2 DP 7360; Lot 7 DP 7360; Lot 6 DP 7360; Lot 1 DP 7360; Lot 3 DP 7360; Lot 5 DP 7360; Lot 4 DP 7360; Section 250 Waiau SD.

5. The consent holder shall not commence expanded dairy activities on the block referred to in Condition 1(b) until:

- (a) a 288.7 hectare block marked as 'new plantation forest' as shown on the plan attached as Appendix 1 has been fully retired from pastoral grazing; and
- (b) date-stamped photos have been submitted to the Consent Authority (EScompliance@es.govt.nz) showing that the 288.7 hectare 'new plantation forest' referred to in (a) above has been fully planted in trees; and
- (c) confirmation has been received in writing from the Consent Authority that Condition 5(b) has been complied with. However, if this confirmation is not received within 10 working days of submission this will be taken as confirmation by the Consent Authority as compliance with Condition 2(b); and;
- (d) a Forestry Right has been registered against [title reference] in favour of the Consent Holder in respect to the 'new plantation forest'. The Forestry Right shall be in the form approved by the Consent Authority; and
- (e) an annual certificate shall be provided by the consent holder by 30 September each year certifying that to the best of their knowledge the terms of the Forestry Right have been complied with during the preceding 12 months.

6. The farming activities shall be limited to:

- (a) a maximum milking herd of no more than 1,200 cows; and
- (b) a maximum of 300 R1 cattle, 285 R2 cattle and 25 mating bulls.

Advice Note: Milking age cows on the land refers to mature age milking cows on pasture paddocks, however if mature age milking cows are being quarantined outside of the winter barn to prevent contagious ailments from spreading, then this would not be considered a breach of the above rule.

7. The Consent Holder shall notify the Consent Authority the identity of the Person in Charge of ~~Valley View support block~~ the land:

- (a) prior to the first exercise of this consent, and
- (b) no more than five working days following the appointment of any new Person in Charge.

Commented [GG1]: Condition could be added which requires the applicant to respond to any potential changes on the forestry block (i.e. reducing stock numbers if the forestry activity changes)

Commented [CB2R1]: The relevance or not of this was discussed at hearing.

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Exclusions

8. Intensive winter grazing of stock on the land is limited to 53.7 ha of winter forage crop on the ~~dairy platform~~landholding grazed by mature age cows, R1s and R2s.

Advice note: Intensive winter grazing is defined as the grazing of stock between May and September (inclusive) on forage crops (including brassica, beet and root vegetable crops), excluding pasture and cereal crops.

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9. The landholding must not be grazed by mature aged female beef cows, mature age beef steers or sheep at any time of the year.

~~*Advice note: Intensive winter grazing is defined as the grazing of stock between May and September (inclusive) on forage crops (including brassica, beet and root vegetable crops), excluding pasture and cereal crops.*~~

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Advice note: Here for female beef cows and beef steers, 'mature age' refers to an animal that is two years old, or older.

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10. Cultivation of winter forage crops and intensive winter grazing of those winter forage crops shall not occur on a slope over 10 degrees.

Nutrient Management

11. The Consent Holder shall implement a soil testing regime to determine the soil fertility status over the landholding and to develop fertiliser recommendations based on the soil testing results.

12. The Consent Holder shall maintain a record of their soil testing regime, soil testing results and fertiliser recommendations required by Condition 11 within the Farm Environmental Management Plan.

13. The Consent Holder shall:

- (a) manage the application of fertiliser in accordance with:
 - (i) The Code of Practice for Nutrient Management (With Emphasis of Fertiliser Use) Fertiliser Association, 2013, ISBN 978-0-47328345-2"; or
 - (iii) any subsequent updates;
- (b) not apply fertiliser:
 - (i) to land during the period 1 June - 31 July inclusive;
 - (ii) within 10 m of a surface water body;
 - (iii) within 10 m of any wetland boundary;
 - (iv) within 20 m of any bore;
 - (v) when soil temperature is at or below six degrees Celsius;
 - (vi) when soil moisture capacity is exceeded; and
 - (vii) directly to land within a riparian strip/margin.
- (c) not apply synthetic nitrogen fertiliser at a rate of more than 190 kg/ha/year on an individual hectare basis to pasture or winter forage crops, and as an average over the landholding.

14. The Consent Holder shall:

- (a) take representative soil samples at least once every two years and have those samples analysed for Olsen P by a laboratory with IANZ accreditation;

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- (b) if average Olsen P levels exceed a range of ~~26-3230-34~~, the Consent Holder must reduce the amount of P fertiliser being applied to the landholding to ensure the risk of P loss is reduced; and
- (c) record the Olsen P results required by (a) and any fertiliser reduction required by (b) in their Farm Environmental Management Plan.

Nutrient Modelling

~~15. The Consent Holder must ensure that nitrogen and phosphorus losses to water from farming activities undertaken on the land are maintained at, or below the baseline contaminant loss rates of:~~

- ~~(a) 54 kilograms per hectare per year nitrogen:
 - ~~(i) as estimated by the four-year rolling average loss rates using OVERSEER FM® version 6.5.0, undertaken in accordance with the generally accepted best practice modelling including the applicable Best Practice Data Input Standards/Overseer FM User Guide.~~~~
- ~~(b) 1.1 kilogram per hectare per year phosphorus:
 - ~~(i) as estimated by the four-year rolling average loss rates using OVERSEERFM® version 6.5.0, undertaken in accordance with the generally accepted best practice modelling including the applicable Best Practice Data Input Standards/Overseer FM User Guide; and~~
 - ~~(ii) information from published New Zealand and Overseas research to estimate the additional phosphorus loss mitigation, beyond that modelled in Overseer, that is likely to occur as a result of the mitigation being implemented in accordance with the FEMP required under this resource consent.~~~~

~~For the purposes of this resource consent, the four-year rolling average is defined as the average of the most recent four consecutive years' results starting from 1 July 2023.~~

~~16. Each and every year for the duration of this consent, using the current version of OverseerFM and in accordance with the generally accepted best practice modelling and the current Best Practice Data Input Standards, the Consent Holder shall:~~

- ~~(a) model the nitrogen and phosphorus loss rates for the previous year from 1 July to 30 June inclusive;~~
- ~~(b) calculate the four-year rolling average of nitrogen and phosphorus loss rates; and~~
- ~~(c) re-model the baseline contaminant loss rates specified in condition 14 in the current version of Overseer.~~

~~17. The re-modelled baseline contaminant loss rates, modelled in accordance with Condition 16(c) shall supersede and replace the baseline contaminant loss rates specified in condition 15.~~

~~18. A report must be provided to the Consent Authority by 30 September each year summarising the results of Overseer nitrogen and phosphorus loss modelling required by condition 16. The report must include:~~

- ~~(a) a review of the Overseer input data to ensure that the annual nutrient budget reflects the farming system;~~
- ~~(b) an explanation of any differences between that nutrient budget and the annual nutrient budget of all previous years of farming undertaken under this consent;~~

Commented [GG3]: In light of the Govt SAP review of the effectiveness of OVERSEER I will leave the inclusion of these conditions up to commissioners discretion

Commented [CB4R3]: The applicant has proposed to remove the Overseer conditions. This was included in Ms Railton's (my) evidence.

Commented [CB5]: If commissioners choose to adopt Condition 15 - 20, here in Condition 15 the preferred start date for the rolling average is 1 July 2024.

If condition is adopted, the applicant is wanting to responsibly transition and requests this rolling average start the following season, it will require time to make the changes proposed. If this application is successful some changes can be given effect to more quickly than others. For reporting purposes, 1 July 2024 is more logical.

- ~~(c) a comparison of the four year rolling average nitrogen and phosphorus losses with the applicable baseline contaminant loss rates; and~~
- ~~(d) the names and summaries of the relevant qualifications and experience of the person(s) who prepared and (if relevant) reviewed the nutrient budget.~~

~~19. All nutrient loss modelling required by this consent must be undertaken by a person who is a Certified Nutrient Management Advisor (CNMA) under the Nutrient Management Advisor Certification Programme (NMACP).~~

~~20. The Consent Holder may use an alternative model that has been demonstrated to be equivalent to Overseer provided:~~

- ~~(a) the evidence to demonstrate equivalence is provided to the Consent Authority at least six months prior to submitting the relevant annual report as required by condition 18; and~~
- ~~(b) the use of the alternative model is approved by the Chief Executive of the Consent Authority.~~

Mitigation Measures

~~21.15.~~ The Consent Holder shall undertake maintenance of the existing and any new dairy lanes to ensure they are contoured to ensure that any run-off occurs onto vegetated areas where it will not enter any surface water body.

~~22.16.~~ The Consent Holder must manage the dairy lanes so that agricultural effluent and effluent sludges from the lanes does not:

- (a) accumulate in gateways;
- (b) accumulate in paddocks; or
- (c) result in the ponding, pooling, overland or lateral flow of any effluent or sludge beyond the dairy lane.

~~23.17.~~ Prior to the exercise of this consent, the Consent Holder shall inspect all bridges and culverts and, where necessary, undertake improvements to the structures to ensure that there is no runoff of agricultural effluent to surface water.

~~24.18.~~ Except for crossings of surface waterways, the Consent Holder shall not construct any new dairy lanes within 10 metres of a surface waterbody.

~~25.19.~~ Any newly constructed dairy lanes shall have and maintain a 3 metre wide vegetated buffer to mitigate phosphorus run off to surface waterways.

Targeted Mitigations

~~26. The Consent Holder shall:~~

- ~~(a) install any new permanent fencing of any unfenced or temporarily fenced surface waterbodies with a minimum 3 metre buffer, and written confirmation, along with date stamped photos, of the new fencing provided to the Consent Authority (EScompliance@es.govt.nz) by [date]; and~~
- ~~(b) plant approximately [X]m of riparian strips, and written confirmation, along with date stamped photos, of the riparian planting provided to the Consent Authority (EScompliance@es.govt.nz) by [date].~~

~~27.20.~~ The Consent Holder shall:

~~[RTC-268249-4-77-V1:JAS](#)~~

Commented [GG6]: If consent was to be granted these conditions would require specific application related details.

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- (a) permanently fence the ~~Critical Source Area~~waterway to exclude stock access, at or about NZTM2000 ~~xxx~~ 1202270E 4891877N, as per **Appendix 2**; and
- (b) provide written confirmation, along with date stamped photos, of the permanently fenced ~~Critical Source Area~~waterway to the Consent Authority (EScompliance@es.govt.nz) ~~by~~ within three months of consent being granted ~~(date)~~.

Field Code Changed

~~28-21~~. The Consent holder shall prepare and implement a Riparian Planting Plan for the farm that includes the use of native plants. This plan shall be prepared within six months, and begin being implemented within ~~12-18~~ months, of the consent being granted and be incorporated into the Consent Holder's Farm Environmental Management Plan required by Condition ~~33-27~~. The plan required by this condition shall be provided to Te Ao Marama Inc (office@tami.maori.nz).

Field Code Changed

~~29-22~~. The Riparian Planting Plan required by Condition ~~28-21~~ shall include, but not be limited to the areas below:

- (a) the planting of a 5.5ha area between the dairy shed and Gap creek ~~with not less than 50% native and 50% exotic vegetation~~, at or about NZTM2000 1201609E 4890766N, ~~as per Appendix 2, and be completed within 18 months of consent being granted;~~
- (b) the planting of both sides of the waterway ~~that runs from~~ ~~location~~, beginning at or about NZTM 1202458E 4891946N ~~xxx~~ and finishing at or about 1202034E 4891871N ~~xxx~~, as per **Appendix 2**, ~~with native vegetation and be completed within two years of consent being granted;~~
- (c) the planting of both sides of the waterway ~~with native vegetation that runs from~~ ~~location~~, beginning at or about NZTM 1203042E 4890393N ~~xxx~~ and finishing at or about 1202813E 4890358N ~~xxx~~, as per **Appendix 2**, ~~with native vegetation and be completed within three years of consent being granted.~~

~~30-23~~. When stock are being ~~break-fed and/or~~ intensively winter grazed on the ~~dairy platform/~~landholding, as described in Condition 8, the Consent Holder shall:

- (a) back fence the stock to prevent stock entering previously grazed areas;
- (b) progressively graze stock from the top of the slope to the bottom of the slope or leave a 20 metre 'last bite' strip at the base of the slope;
- (c) use portable feeders when supplementary feed is used;
- (d) provide transportable water troughs in or near the areas being grazed;
- (e) ensure critical source areas within the area being grazed remain uncultivated and ungrazed;
- (f) ensure that individual mob sizes being winter grazed do not exceed a maximum of 120 cattle; and
- ~~(g) a vegetated strip is maintained in, and stock excluded from the outer edge of the bed of any surface waterbody (excluding ephemeral rivers) and any wetland for a distance of at least 5 metres~~
- ~~(h)~~(g) maintain a 10m buffer from all waterways to winter forage crops (grazed 1 May to 30 September), where the buffer will be uncultivated ~~from winter forage crop~~ and retained in pasture.

~~31-24~~. Following intensive winter grazing on all areas of the landholding, the Consent Holder shall re-sow at the earliest opportunity based on paddock suitable conditions and as soon as practicable to minimise the amount of time that bare ground is exposed.

~~32-25~~. The Consent Holder shall cultivate;

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- (a) with the contour of the land being used for cultivation and shall not cultivate up and down the slope; and
- (b) in accordance with Rule 25(a) of the Proposed Southland Water and Land Plan (Decisions Version), or any subsequent replacement versions.

Farm Environmental Management Plan

~~33-26~~. The Consent Holder shall have and maintain a Farm Environmental Management Plan (FEMP) for the landholding. The FEMP shall, in accordance with Appendix N of ~~(Decisions Version)~~ the Southland Water and Land Plan (or any replacement Appendix in an updated version of the plan), demonstrate how the following outcomes are to be achieved:

- (a) nutrients are used efficiently and nutrient loss to water is minimised;
- (b) contaminant losses from critical source areas are reduced;
- (c) cultivation is undertaken in a manner that minimises the movement of sediment and phosphorus to waterways;
- (d) intensive winter grazing occurs in a way that minimises the loss of sediment, phosphorus and microbiological contaminants to waterways;
- (e) agricultural effluent and other discharges are managed in a way that avoids or minimises the loss of contaminants to water. Irrigation water is applied to meet plant demands and minimises the risk of leaching and run-off;

~~34-27~~. The FEMP required by Condition 33 shall also include, but not be limited to:

- (a) a site map showing the location of critical source areas; physiographic zones; permanent or intermittent rivers, streams, lake, drains, ponds or wetlands; where known the location and depth of any subsurface drainage systems including outlets, riparian vegetation and fences adjacent to waterways and stock access points across waterways;
- (b) details of the implementation and maintenance of mitigation measures required by the conditions of this consent;
- (c) details of the implementation and maintenance of Good Management Practices, including adoption of changing industry good management practices. This includes where the implementation of these is to avoid, remedy or mitigate any farm specific environmental risks to water quality shown through any monitoring undertaken on the property voluntarily or as required by the conditions of this consent;
- (d) a review of the data obtained from the monitoring undertaken in accordance with the Farm Environmental Management Plan and any changes made, or to be made, as a consequence of that monitoring.

Advice Note: *Should the use of a Freshwater Farm Plan be required or available, on the basis that it is certified under Section 217G of the Resource Management Act 1991 (as amended from time to time in accordance with Section 217E(2) or (3)) and available for use, the Consent Holder may elect to use such plan.*

~~35-28~~. The FEMP shall be reviewed at least once each milking season and can be modified at any time by the Consent Holder; and either:

- (a) an updated version shall be provided to the Consent Authority by ~~31 May~~30 September each year; **or**
- (b) the Consent Holder must notify the Consent Authority in writing that no changes have been made by 30 September each year.

Advice Note

The results from the review of the FEMP will be assessed by the Consent Authority to ensure that the FEMP will still achieve the objectives specified in the FEMP and the FEMP has been prepared in accordance with Appendix N of the Southland Water and Land Plan (Decisions Version) (or any updated version of the plan).

~~36-29~~. The Consent Holder shall operate in accordance with the FEMP at all times. Where there is inconsistency between the FEMP and the conditions of the consent, the conditions of this consent shall prevail.

Auditing

~~37-30~~. The Consent Authority may require the Consent Holder to have the farming activity as authorised by this consent independently audited, in accordance with Appendix 2, by a person who is a Certified Nutrient Management Advisor or Farm Environmental Plan Auditor or a Suitably Qualified Person who has demonstrated an equivalent level of expertise.

Lapse and Review

~~38-31~~. The Consent Authority may, in accordance with Sections 128 and 129 of the Resource Management Act 1991, serve notice on the consent holder of its intention to review the conditions of this consent during the period 1 February to 30 September each year, or within two months of any enforcement action being taken by the Consent Authority in relation to the exercise of this consent, or on receiving monitoring results, for the purposes of:

- (a) determining whether the conditions of this permit are adequate to deal with any adverse effect on the environment, including cultural effects on the tangata whenua and/or cumulative effects, which may arise from the exercise of the permit, and which it is appropriate to deal with at a later stage, or which become evident after the date of commencement of the permit; or
- (b) ensuring the conditions of this consent are consistent with any National Environmental Standards Regulations, relevant plans and/or the Environment Southland Regional Policy Statement;
- (c) amending the auditing/monitoring/recording/reporting/modelling programme to be undertaken;
- (d) adding or adjusting compliance limits;
- (e) ensuring the Waiau Freshwater Management Units meets the freshwater objectives and freshwater quality limits set in an operative regional plan or National Policy Statement for Freshwater Management; and
- (f) requiring the Consent Holder to adopt the best practicable option to remove or reduce any adverse effect on the environment as a result of the exercise of this permit.

for the **Southland Regional Council**

Commissioner Alan Cubitt
Independent Hearing Commissioner

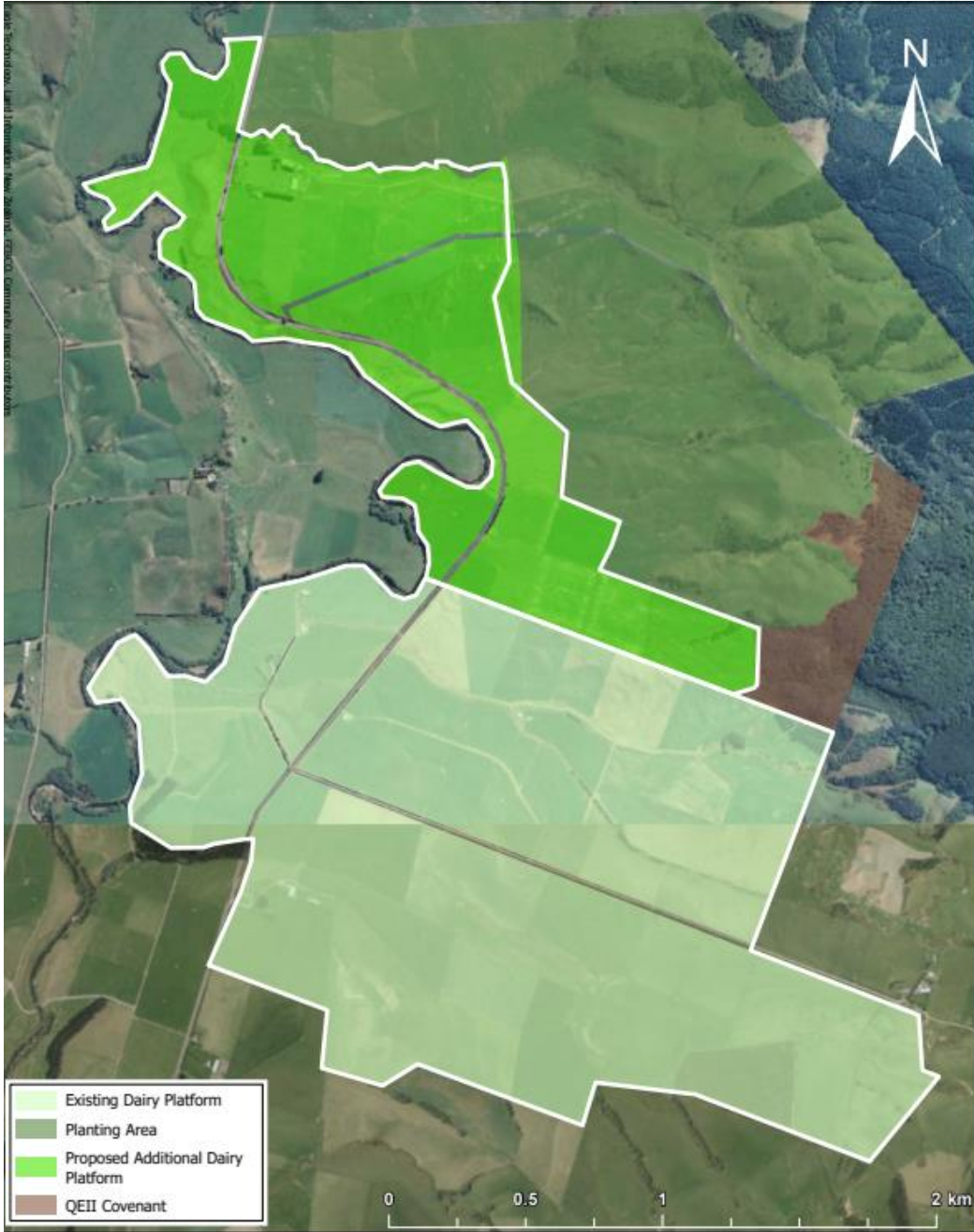
Notes:

- 1. Reporting to Council is required by conditions of your consent. The key dates for you to meet are listed below in Table 1:

Due date	Condition number	Requirement
30 September (Annually)	18	A report must be provided to the Consent Authority by 30 September each year summarising the results of Overseer nitrogen and phosphorus loss modelling required by condition 16.
Plan submitted to Consent Authority within 6 months, and begin being implemented within 12-18 months of the consent being granted.	28	Consent holder shall prepare and implement a Riparian Planting Plan for the farm that includes the use of native plants.
31 May 30 September each year (Annually)	35	Updated FEMP, <u>or notice that no changes have been made to the FEMP-</u>

- 2. In accordance with Section 125(1)(a) of the Resource Management Act, this consent shall lapse after a period of five years after the date of commencement unless it is given effect to or an application is made to extend the lapse period before the consent lapses.
- 3. In accordance with Section 138 of the Resource Management Act, this consent may be surrendered by providing written notice to the Consent Authority. This written notice must be accompanied with evidence to demonstrate that the conversion is complete and that all of the conditions of this permit have been satisfied in full.
- 4. The Consent Holder shall pay an annual administration and monitoring charge to the Consent Authority, collected in accordance with Section 36 of the Resource Management Act, 1991, payable in advance on 1 July each year. This charge may include the costs of inspecting the site up to two times each year (or otherwise as set by the Consent Authority's Annual Plan).
- 5. The FEMP, supporting evidence and on-site practices may be audited by the Consent Authority at any time for compliance and enforcement purposes.

Appendix 1



Appendix 2



Appendix 23: Auditing Criteria

1. The audit shall assess the performance of the farming activity occurring on the property against:
 - (a) the objectives and good management practices specified in the FEMP;
 - (b) any additional mitigation measures implemented on the property either voluntarily or as required by the conditions of this consent; and
 - ~~(c) the baseline contaminant loss rates specified in Condition 14 and 16.~~
2. The audit must determine the level of confidence of achieving each objective set out in the FEMP. This level of confidence shall be categorised into the following:
 - **High** - the objective is probably being achieved
 - **Medium** - the objective is possibly being achieved
 - **Low** - it is unlikely that the objective is being achieved.
3. The audit shall record the justification for each level of confidence assessment, including noting the evidence, or lack of, used to make the determination.
4. Where an objective has received a Medium or Low level of confidence, the audit shall include the actions required for the farm to meet the objective and a timeframe whereby these actions need to be undertaken.
5. Where an objective has received a Medium level of confidence (and the farm has received no Lows), the audit shall also determine whether or not the farm is on-track to achieve the objectives.
6. The audit report shall be provided to the Consent Authority within three months of the date of the Consent Authority issuing a requirement to undertake the audit.
7. The frequency of audit requirements may be annually except where, for two consecutive years, an audit report has concluded that all objectives are probably being achieved (received a high level of confidence). In that situation no further audit will be required for at least three years.
8. Where the audit identifies actions required to be undertaken for the farm to meet the objective the Consent Holder must implement these actions within the timeframes stated in the audit.
9. Upon completion of any changes made and/or mitigations implemented as required by the audit, the Consent Holder shall confirm in writing, including photographs (date and time stamped) to the Consent Authority that these actions have been completed and implemented.
10. Upon completion of all the changes made and/or mitigations implemented as identified in the audit, the Consent Holder must ensure the measures are properly maintained, continue to function and are not removed or altered for the duration of this consent (and any subsequent variation versions).

Commented [GG7]: Remove if nutrient modelling conditions are not included

Commented [CB8R7]: Have proposed to remove these conditions.